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AUG 12 1987

STAT

MEMORANDUM FOR:

Office of Congressional Affairs

FROM:

Hugh E. Price
Director of Personnel

SUBJECT:

OPM Letter on Windfall Benefit Elimination

REFERENCE:

Your memorandum, same subject, dtd 15 July 1987

1. The Office of Personnel (OP) does not share the Director, Office of Personnel Management's (OPM) opposition to the proposed amendment to modify the Windfall Benefit Elimination provision under current law. OP believes that the factors cited by the Director, OPM as the basis for her opposition must be evaluated in light of the need to maintain balance and equity between the treatment of Federal employees in the Civil Service Retirement System (CSRS) and those in the Federal Employees Retirement System (FERS).

2. The severity of the benefit reductions under FERS imposed by current statutes overshadows any of the factors (e.g. work history, family circumstances, health, financial needs, etc.) that OPM itself stresses must form the basis for the individual's decision on the transfer options. Thus, regardless of the attractiveness of FERS to individual Federal employees, the loss of future Social Security benefits because of the Windfall Offset makes the option to transfer to FERS an empty one.

3. The proposed amendment causing an employee to serve a minimum period of five years under FERS to avoid the Offset provides a meaningful period of Social Security participation. This period would provide half the "earned quarters" required of employees to earn Social Security old age benefits. This requirement would preclude individuals from transferring to FERS and retiring shortly thereafter simply to avoid the Windfall penalty under CSRS coverage. It would also ensure that employees who transfer receive the maximum Social Security Benefit, a benefit for which they would have paid full contributions and on which the FERS benefit structure heavily depends.

SUBJECT: Windfall Benefit Elimination

4. We urge that the Agency support this amendment which we believe will establish the viability of the transfer option for all employees under CSRS and other older systems. Any inconvenience or expense caused by extending the open season because of the passage of this legislation is far outweighed by the need to provide equity in benefits between the CSRS and the FERS. The proposed amendment would also help redress some of the losses in retirement benefits experienced by Federal employees during the past year.

STAT



Hugh E. Price

OCA 87-2975
15 July 1987

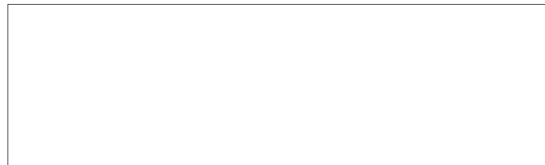
MEMORANDUM FOR: Director of Personnel

FROM:
Office of Congressional Affairs

SUBJECT: OPM letter on Windfall Benefit Elimination

1. OMB has requested our comments on a draft OPM letter to the House Ways and Means Committee on a proposed amendment to the "Windfall Benefit Elimination" provisions of the Social Security Act. The amendment would allow employees with five years of FERS service to escape the provisions of the "Windfall Benefit Elimination" provisions of the Social Security Act for Federal employees who transfer to FERS.

2. OMB has requested our views no later than COB 17 July 1987. I would appreciate a response by the Office of Personnel by that date. Thank you for your cooperation.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SPECIAL

July 14, 1987

CONGRESSIONAL AFFAIRS

87-2965

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

Department of Health and Human Services-F. White-
245-7760
Department of State - L.Howdershell -647-4463
Central Intelligence Agency

SUBJECT: Proposed OPM letter to House Ways and Means Committee members on the proposed amendment to the "Windfall Benefit Elimination" provision affecting Federal employees who transfer to FERS.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Friday, July 17, 1987. The Committee is expected to act next week on this amendment.

Questions should be referred to Hilda Schreiber (395-7362), the legislative analyst in this office.

Naomi R. Sweeney
Naomi R. Sweeney for
Assistant Director for
Legislative Reference

Enclosures



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415

Office of the Director

Dear

I am writing to express my grave concern about the proposed amendment to the "Windfall Benefit Elimination" provision, which, I understand, is under consideration by the House Ways and Means Committee.

This amendment would modify the "Windfall Benefit Elimination" provisions of the Social Security Act for Federal employees who transfer to the new Federal Employees Retirement System (FERS) and become subject to Social Security. It would apply the regular Social Security computation formula after only five years of service under FERS, ignoring the 30-year test which is applied to all other workers who receive pensions both from Social Security and from employment not subject to Social Security. In my view, the amendment is bad public and fiscal policy.

It is bad public policy because it accords Social Security benefits to Federal employees on different terms from those applicable to other workers. Many state, local, and non-profit organization employees receive retirement benefits based on employment exempt from Social Security taxes in addition to benefits under Social Security. Only Federal employees could escape the "Windfall Benefit Elimination" after five years of FERS service; all others would have to meet the 30-year test.

The amendment is bad fiscal policy because it permits and indeed encourages "adverse selection" in the choice currently before Federal workers, between the old and new retirement systems. Such adverse selection will inevitably and unjustifiably increase Government expenditures. In 1987, a worker's Social Security benefit would be increased by \$1,860 per year by avoiding the "Windfall Benefit Elimination." The amendment provides no additional revenues to the Government, but it allows over two million Federal employees to exploit the transfer opportunity to maximize their retirement benefits (at Government expense) and provides additional Social Security benefits to those who would have transferred to FERS in any case. We conservatively estimate that the additional expenditures will total in excess of a billion dollars over the lifetime of the affected employees.

2.

Finally, the amendment will seriously disrupt the FERS open season now in progress. The additional benefits it provides are significant enough to affect fundamentally the decision on whether to transfer to FERS and thus, to render all of the informational materials and training that have been provided about the transfer decision obsolete. The Office of Personnel Management has devoted nine months' work and \$3 million to developing and disseminating open season information. Individual Federal agencies have also incurred major costs, though these have not been captured on a governmentwide basis.

The Administration worked closely with the Congress in developing the new Federal Employees Retirement System. Many concessions and compromises were made to arrive at a balanced system which treats employees equitably and which can withstand taxpayers' scrutiny. The deliberations included specific consideration of the Windfall Elimination provision which was left intact for the purposes of assuring that Federal employees did not enjoy special treatment or reap any "windfall" under Social Security and for reasons of fiscal restraint. These purposes are as valid today as they were then and there is simply no good reason for unravelling an agreement which was not easily attained.

I urge you to oppose this amendment. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

Constance Horner
Director

Pension Fork in the Road

By Mike Causey
Washington Post Staff Writer

Government workers trying to decide which pension route to follow should keep an eye on the House Ways and Means Committee, which may make major changes in future Social Security benefits.

The committee will act next week on two plans to drastically alter how Social Security benefits—earned and unearned—are treated under the new federal pension plan. Earned benefits are those based on the worker's Social Security covered work. Unearned benefits include those based on the Social Security entitlement of a spouse.

This year most of the 2 million U.S. workers hired before 1984 must decide whether to switch to the new Federal Employees Retirement System, or stay in the Civil Service Retirement System.

Changes being considered by the committee could alter the pension plans of millions of federal employees.

The situation is so uncertain that federal and postal unions are advising members to delay making a pension switch until they know what changes Congress may make in the FERS program.

This is where things stand:

- Workers now switching to FERS can, after only one day of coverage, escape a so-called double-dipper penalty applied to those under the old CSRS plan. Retirees under CSRS who collect spousal or survivor Social Security benefits have those benefits reduced \$2 for every \$3 that they get in a public pension. So if a worker gets a public pension and also applies for Social Security as the spouse or survivor of someone covered by Social Security, it will be reduced by the amount of the worker's government pension.

FERS currently exempts covered workers from the unearned Social Security benefit reduction. But the committee is trying to close that loophole. It generally

would require FERS coverage for five years before any exemption from the benefit reduction. Persons now between 60 and 65 would have to spend less time under FERS to avoid the reduction. Most people affected by this change are women who work for the government and haven't earned their own Social Security benefits.

- The other possible change is even more far-reaching, affecting 60 percent of the government work force. It deals with the so-called windfall benefits penalty currently applied to most government retirees applying for Social Security benefits.

That Public Pension Offset Law covers workers first eligible for government retirement after 1985 (regardless of whether they retired). In general, it reduces or eliminates a Social Security benefit depending on how long the individual worked under Social Security and the amount of the worker's government pension.

Pushed by Rep. Hal Daub (R-Neb.), the committee's Social Security subcommittee has approved language to eliminate the windfall benefits penalty for workers who switch to FERS and in most cases spend five years under the new plan.

Daub, who has a good working relationship with federal unions is running for the Senate next year. He believes the change would benefit workers who are willing to go into FERS (which costs the taxpayers less) and pay the full Social Security tax for five years.

Full committee approval of either change would be subject to approval by the full House, Senate and the president. But the committee approves either change, chances are the changes will become law.

Given the importance of the proposed changes, U.S. workers who are eligible for future Social Security benefits should probably hold off on a decision to change pensions until the picture is clearer.